IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

CRL.A.No. 2102 of 2003()

CC.36/2002 of CHIEF JUDICIAL MAGISTRATE COURT, PATHANAMTHITTA

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APPELLANT: COMPLAINANT

M.N.RADHAKRISHNAN, INTERNATIONAL
AIR TRAVELS, OPPOSITE SIDE OF MUSLIM
SCHOOL, VETTIPURAM ROAD, PATHANAMTHITTA.

BY ADV. SRI.D.PREM KAMATH

RESPONDENTS: ACCUSED AND STATE

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1. RENUKA BHAI, ARUN BHAVAN,
POOZHIKKAD P.O., PANDALAM.

2. STATE OF KERALA, REPRESENTED BY
THE DIRECTOR GENERAL OF PROSECUTION,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 26/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.2102 of 2003

Dated this the 26th day of September, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 29.10.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl